

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

KOPELMAN & KOPELMAN LLP
90 Main Street, Suite 205
Hackensack, New Jersey 07601
Telephone: (201)489-5500
Fax: (201)489-7755
Michael S. Kopelman, Esq., (MK 6104)
Attorney for Defendants

Case No. 19-10132-SCC

Chapter 7

Judge:

In Re:

Adv. Proc. No.19-01111

IN SOOK STERLING

Hearing Date:

Debtor.

STRATEGIC FUNDING SOURCE, INC.,

Plaintiff,

v.

IN SOOK STERLING, MTK 38 INC. and
JAY ENTERTAINMENT CORP.

Defendants.

ANSWER WITH SEPARATE DEFENSES

Defendants, In Sook Sterling, by way of answer to the Adversary Complaint
("Complaint") of Strategic Funding Source, Inc. ("Plaintiff") state as follows:

I. JURISDICTION AND VENUE

1. Defendants admit the allegations contained in ¶ 1 of the complaint.
2. Defendants admit the allegations contained in ¶ 2 of the complaint.

3. Defendants admit the allegations contained in ¶ 3 of the complaint.

4. Defendants decline to answer the allegation contained in ¶ 4 because no response is required.

5. Defendants decline to answer the allegation contained in ¶ 5 because no response is required.

6. Defendants admit the allegation contained in ¶ 6 of the complaint.

II. THE PARTIES

7. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 7 of the complaint and leave Plaintiff to its proofs.

8. Defendants admit the allegations contained in ¶ 8 of the complaint.

9. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 9 of the complaint and leave Plaintiff to its proofs.

10. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 10 of the complaint and leave Plaintiff to its proofs.

11. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 11 of the complaint and leave Plaintiff to its proofs.

12. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 12 of the complaint and leave Plaintiff to its proofs.

III. GENERAL ALLEGATIONS

13. Defendants admit the allegations contained in ¶ 13 of the complaint.

14. Defendants admit the allegations contained in ¶ 14 of the complaint.

15. Defendants deny the allegations contained in ¶ 15 of the complaint.

IV. SPECIFIC FACTUAL ALLEGATIONS

16. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 16 of the complaint and leave Plaintiff to its proofs.

17. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 17 of the complaint and leave Plaintiff to its proofs.

The Pre-Funding Call

18. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 18 of the complaint and leave Plaintiff to its proofs.

The Agreement

19. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 19 of the complaint and leave Plaintiff to its proofs.

20. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 20 of the complaint and leave Plaintiff to its proofs.

21. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 21 of the complaint and leave Plaintiff to its proofs.

22. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 22 of the complaint and leave Plaintiff to its proofs.

23. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 23 of the complaint and leave Plaintiff to its proofs.

24. Defendants deny having sufficient knowledge to form a belief as to the

allegations contained in ¶ 24 of the complaint and leave Plaintiff to its proofs.

25. Defendants deny the allegations contained in ¶ 25 of the complaint.

Debtor's Immediate Breach

26. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 26 of the complaint and leave Plaintiff to its proofs.

27. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 27 of the complaint and leave Plaintiff to its proofs.

28. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 28 of the complaint and leave Plaintiff to its proofs.

29. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 29 of the complaint and leave Plaintiff to its proofs except deny that there is any judgment.

30. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 30 of the complaint and leave Plaintiff to its proofs.

31. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 31 of the complaint and leave Plaintiff to its proofs.

32. Defendants deny the allegations contained in ¶ 32 of the complaint.

33. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 33 of the complaint and leave Plaintiff to its proofs.

34. No response is made because bankruptcy petition speaks for itself.

35. No response is made because bankruptcy petition speaks for itself.

36. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 36 of the complaint and leave Plaintiff to its proofs.

37. Defendants deny the allegations contained in ¶ 37 of the complaint.

38. Defendants deny the allegations contained in ¶ 38 of the complaint.

39. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 39 of the complaint and leave Plaintiff to its proofs.

40. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 40 of the complaint and leave Plaintiff to its proofs.

41. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 41 of the complaint and leave Plaintiff to its proofs.

42. Defendants deny the allegations contained in ¶ 42 of the complaint.

PLAINTIFF'S CAUSES OF ACTION AGAINST DEFENDANTS

COUNT I

(Nondischargeability of Debt Pursuant to 11 U.S.C. § 523(a)(2)(A) False Pretenses, False Representation, Actual Fraud)

43. Defendants repeat and incorporates their responses to paragraphs 1 through 42 above as if set forth at length herein.

44. Defendants deny the allegations contained in ¶ 44 of the complaint.

45. Defendants deny the allegations contained in ¶ 45 of the complaint.

46. Defendants deny the allegations contained in ¶ 46 of the complaint.

47. Defendants deny the allegations contained in ¶ 47 of the complaint.

48. Defendants deny the allegations contained in ¶ 48 of the complaint.

49. Defendants deny the allegations contained in ¶ 49 of the complaint.

50. Defendants deny the allegations contained in ¶ 50 of the complaint.

51. Defendants deny the allegations contained in ¶ 51 of the complaint.

52. Defendants deny the allegations contained in ¶ 52 of the complaint.

53. Defendants deny the allegations contained in ¶ 53 of the complaint.

COUNT II

(Nondischargeability of Debt Pursuant to 11 U.S.C. § 523 a)(2)(B) Materially False Statement with Intent to Deceive)

54. Defendants repeat and incorporates their responses to paragraphs 1 through 53 above as if set forth at length herein.

55. Defendants deny the allegations contained in ¶ 55 of the complaint.

56. No response is made because statute speaks for itself.

57. Defendants deny the allegations contained in ¶ 57 of the complaint.

58. Defendants deny the allegations contained in ¶ 58 of the complaint.

59. Defendants deny the allegations contained in ¶ 59 of the complaint.

60. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 60 of the complaint and leave Plaintiff to its proofs.

61. Defendants deny the allegations contained in ¶ 61 of the complaint.

62. Defendants deny the allegations contained in ¶ 62 of the complaint.

63. Defendants deny the allegations contained in ¶ 63 of the complaint.

64. Defendants deny the allegations contained in ¶ 64 of the complaint.

65. Defendants deny the allegations contained in ¶ 65 of the complaint.

COUNT III

(Non-dischargeability of Debt Pursuant to 11 U.S.C. § 523(a)(4) Fraud or Defalcation While Acting in a Fiduciary Capacity, Embezzlement, or Larceny)

66. Defendants repeat and incorporates their responses to paragraphs 1 through 65 above as if set forth at length herein Plaintiff's complaint fails to state a claim upon which relief can be granted.

67. Defendants deny the allegations contained in ¶ 67 of the complaint.

68. Defendants deny the allegations contained in ¶ 68 of the complaint.

69. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 69 of the complaint and leave Plaintiff to its proofs.

70. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 70 of the complaint and leave Plaintiff to its proofs.

71. Defendants deny the allegations contained in ¶ 71 of the complaint.

72. Defendants deny the allegations contained in ¶ 72 of the complaint.

73. Defendants deny the allegations contained in ¶ 73 of the complaint.

74. Defendants deny the allegations contained in ¶ 74 of the complaint.

75. Defendants deny the allegations contained in ¶ 75 of the complaint.

76. Defendants deny the allegations contained in ¶ 76 of the complaint.

77. Defendants deny the allegations contained in ¶ 77 of the complaint.

78. Defendants deny the allegations contained in ¶ 78 of the complaint.

COUNT IV

(Non-dischargeability of Debt Pursuant to 11 U.S.C. § 523(a)(6) Willful and Malicious Injury by the Debtor)

79. Defendants repeat and incorporates their responses to paragraphs 1 through 78 above as if set forth at length herein Plaintiff's complaint fails to state a claim upon which relief can be granted.

80. No response is made because statute speaks for itself.

81. Defendants deny the allegations contained in ¶ 81 of the complaint.

82. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 82 of the complaint and leave Plaintiff to its proofs.

83. Defendants deny the allegations contained in ¶ 83 of the complaint.

84. Defendants deny the allegations contained in ¶ 84 of the complaint.

85. Defendants deny the allegations contained in ¶ 85 of the complaint.

86. Defendants deny the allegations contained in ¶ 86 of the complaint.

87. Defendants deny the allegations contained in ¶ 87 of the complaint.

COUNT V
(Conversion Against Debtor, Japas 38, Japas NY, and Defendant John Doe)

88. Defendants repeat and incorporates their responses to paragraphs 1 through 87 above as if set forth at length herein Plaintiff's complaint fails to state a claim upon which relief can be granted.

89. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 89 of the complaint and leave Plaintiff to its proofs.

90. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 90 of the complaint and leave Plaintiff to its proofs.

91. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 91 of the complaint and leave Plaintiff to its proofs.

92. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 91 of the complaint and leave Plaintiff to its proofs.

93. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 91 of the complaint and leave Plaintiff to its proofs.

94. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 91 of the complaint and leave Plaintiff to its proofs.

COUNT VI
(Fraud Against Debtor and Japas 38)

95. Defendants repeat and incorporates their responses to paragraphs 1 through 94 above as if set forth at length herein Plaintiff's complaint fails to state a claim upon which relief can be granted.

96. Defendants deny the allegations contained in ¶ 96 of the complaint.

97. Defendants deny the allegations contained in ¶ 97 of the complaint.

98. Defendants deny the allegations contained in ¶ 98 of the complaint.

99. Defendants deny the allegations contained in ¶ 99 of the complaint.

100. Defendants deny the allegations contained in ¶ 100 of the complaint.

101. Defendants deny the allegations contained in ¶ 101 of the complaint.

102. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 102 of the complaint and leave Plaintiff to its proofs.

103. Defendants deny the allegations contained in ¶ 103 of the complaint.

104. Defendants deny the allegations contained in ¶ 104 of the complaint.

105. Defendants deny the allegations contained in ¶ 105 of the complaint.

106. Defendants deny the allegations contained in ¶ 106 of the complaint.

107. Defendants deny the allegations contained in ¶ 107 of the complaint.

108. Defendants deny the allegations contained in ¶ 108 of the complaint.

109. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 109 of the complaint and leave Plaintiff to its proofs.

110. Defendants deny the allegations contained in ¶ 110 of the complaint.

COUNT VII
(Fraudulent Transfer Against Debtor, Japas 38, Japas NY, and Defendant John Doe)

111. Defendants repeat and incorporates their responses to paragraphs 1 through 110 above as if set forth at length herein Plaintiff's complaint fails to state a claim upon which relief can be granted.

112. Defendants deny the allegations contained in ¶ 112 of the complaint.

113. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 113 of the complaint and leave Plaintiff to its proofs.

114. Defendants deny the allegations contained in ¶ 114 of the complaint.

115. Defendants deny the allegations contained in ¶ 115 of the complaint.

COUNT VIII
(Successor Liability against Japas NY)

116. Defendants repeat and incorporates their responses to paragraphs 1 through 115 above as if set forth at length herein Plaintiff's complaint fails to state a claim upon which relief can be granted.

117. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 117 of the complaint and leave Plaintiff to its proofs.

118. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 118 of the complaint and leave Plaintiff to its proofs.

119. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 119 of the complaint and leave Plaintiff to its proofs.

120. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 120 of the complaint and leave Plaintiff to its proofs.

121. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 121 of the complaint and leave Plaintiff to its proofs.

122. Defendants deny having sufficient knowledge to form a belief as to the allegations contained in ¶ 122 of the complaint and leave Plaintiff to its proofs.

123. Defendants deny the allegations contained in ¶ 123 of the complaint.

SEPARATE DEFENSES AS TO ALL COUNTS

AS AND FOR A FIRST SEPARATE DEFENSE

Plaintiff's complaint fails to state a claim upon which relief can be granted.

AS AND FOR A SECOND SEPARATE DEFENSE

Plaintiff did not rely on any alleged false pretenses, false representations or actual

fraud made by Defendant/Debtor.

AS AND FOR A THIRD SEPARATE DEFENSE

The alleged false pretenses, false representations or actual fraud made by Plaintiff, in whole or in part, are statements respecting Debtor's or an insider's financial condition, and, as such, are dischargeable nevertheless.

AS AND FOR A FOURTH SEPARATE DEFENSE

The pre-funding call was not in writing.

AS AND FOR A FIFTH SEPARATE DEFENSE

Plaintiff failed to perform due diligence to ascertain whether or not the alleged false pretenses, false representations or actual fraud allegedly committed by Plaintiff were truthful when made.

WHEREFORE, Defendant In Sook Sterling demands judgment dismissing Plaintiff's complaint.

KOPELMAN & KOPELMAN LLP
Attorneys for the Defendants

/s/ Michael S. Kopelman
By: Michael S. Kopelman, Esq.

Dated: May 9, 2019